

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.5902 OF 1988

For Approval & Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether reporters of local papers may be allowed to see the judgment ?
 2. To be referred to the reporters or not ?
 3. Whether their lordships wish to see the fair copy of the judgment ?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any order made thereunder ?
 5. Whether it is to be circulated to the Civil Judge?

JASUBHAI SOMABHAI PATEL
VERSUS
V S SINHA & ORS.

Appearance:

MR DM THAKKAR for petitioner
MR VM PANCHOLI for respondent No.1
None present for other respondents

Coram: MR.JUSTICE S.K. Keshote, J
Date of decision: 20/06/2000

C.A.V. JUDGMENT

#. Heard the learned counsel for the parties.

#. It is not in dispute that the land belongs to the mother of respondents No.2, 3 and 4. He claims his right, title and interest in the agricultural land in dispute on the basis of adoption, then Will and lastly the gift. In the revenue record his name has been mutated as occupier of the land in dispute. It has been done before the death of the original land holder. So far as Will is concerned, it has no legal force whatsoever before the testator expires. So far as adoption is concerned, the learned counsel for the petitioner fairly admits that no adoption deed has been there. It is also not borne out from the record of this matter that on the basis of adoption this entry has been made in the revenue record in the name of petitioner. So far as the claim based on the gift is concerned, the learned counsel for the petitioner admits that it was the oral gift. Oral gift of immovable property is not of any value and substance and on the basis of it, it is not permissible to the revenue authority to enter the name of the petitioner in the revenue record as occupier of the land in dispute.

#. The learned counsel for the petitioner vehemently contended that the daughters have relinquished their right in the land in dispute. It has next been contended that after 21 years of this entry made in the revenue record in favour of petitioner, they have raised voice. Lastly, it is contended that respondents No.2, 3 and 4 filed civil suit and as such, these proceedings for correction of entry in the revenue record are wholly misconceived.

#. None of the contentions raised by learned counsel for the petitioner is of any substance. Relinquishment of right in the immovable property, by an unregistered document is of no value. Similarly, so far as delay is concerned, the right of daughters in the land of the mother cannot be divested or allowed to be defeated only on the basis of this delay. The mother of respondents No.2, 3 and 4 has expired after coming into force of Hindu Succession Act, 1956 and this right which has been conferred to the daughters cannot be taken away on this technical plea of delay. Last contention regarding filing of suit by respondents No.2, 3 and 4 is concerned, the learned counsel for the petitioner has failed to give out what ultimately is decided in the suit. In the facts of the case, the entry made in respect of land in dispute in favour of petitioner by the revenue authorities is wholly perverse and rightly it is not allowed to be

continued by the Government. The order passed by the State Government is perfectly legal and justified to which no interference is called for.

#. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief earlier granted by this court stands vacated. No order as to costs.

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(sunil)